

**From:** S  
**To:** Microsoft ATR,microsoftcomments@doj.ca.gov@inetgw,...  
**Date:** 11/23/01 10:17am  
**Subject:** Proposed U.S. D.o.J. settlement re: Microsoft anti trust case

This message is to add my voice to what must be a chorus of protest against the proposed settlement between the U.S. Government and Microsoft in the antitrust case in which Microsoft has been held guilty.

The outline of the proposed settlement, as it has become public is both

irresponsible and inappropriate. This company has been held guilty of major and continuing breaches of both Federal and state law. The U.S. Department of Justice has proposed remedies which fail to punish the company for past behavior, fail to provide an effective remedy to prevent future abuses of the same kind, and fail to provide an effective mechanism to detect and prevent new abuses.

One justification for this "softball" settlement has been the economic effects on a major industry that is already in recession. While Microsoft and other companies which ride financially on Microsoft coattails are major financial components of the economy, there is little sense in allowing the continuation and expansion of the activities that 1) led to the guilty judgment in the first place, and 2) will result in continued restraint of trade, narrowing of competition, and use of illegal tactics to leverage monopoly power in operating systems and development related tools to gain dominant positions in new and emerging lines of business. The settlement would put any competitive challenges by other companies in the same chilling position that they now are in and will hinder recovery the economy on which we all depend. In short, appropriate restraints against Microsoft would

**\*\*restore\*** a competitive marketplace and drive faster recovery in the information technologies industries that are now in recession. It is my

opinion that the "Microsoft as economic flywheel" argument for settling this case too easily for Microsoft will damage rather than help economic recovery.

Overall, the recent activities of Microsoft have confirmed that the direction and goals of Microsoft activities and intentions remain unchanged and are even more widespread, aggressive and damaging to consumers and to the marketplace. These recent actions include:

- 1) The recent intentional denial of access to the MSN network to

anyone using software other than that supplied by Microsoft (Internet Explorer). This action is parallel to and a direct extension of the attempt and near success of Microsoft to put Netscape out of business. A move that damaged both the competitive arena in network browsers and has caused demonstrable damage to consumers by denying access to the MSN service by using their operating system monopoly to, first, make use of Internet Explorer (IE) nearly mandatory for the average consumer, and then making the use of IE a prerequisite to use of the MSN service. This aggressive and anti competitive move was only deterred by the sensitive position that Microsoft was in at the time of this experiment vis a vis settlement with the D.O.J. It is not hard to imagine this tactic and similar ones becoming common Microsoft practice after the proposed settlement with the D.O.J. takes effect.

Microsoft also continues to coerce the consumer to use only IE by corrupting pre-existing network coding standards, thus making Web pages developed with Microsoft tools and to Microsoft's own standards incompatible with other browser software. Such incompatibilities and usurpation of standards makes viewing and interacting with Web sites developed with Microsoft tools hard to view and hard to interact with when using browser software other than Microsoft's.

2) The release of the Windows XP operating system that continues to bundle software of types and in ways that establish and maintain a growing stream of revenue to Microsoft at the expense of many competitors and the consuming public. The settlement does nothing to address this new abuse and does little to prevent future activities of this kind. The ineffectual proposed D.O.J. settlement negates the effect of the judgment against Microsoft in the anti-trust case and leaves Microsoft free to continue to damage to both the IT industry and U.S. economy .

3) Microsoft's announced ".net" strategy is another facet of the overall anti competitive and anti consumer strategy Microsoft is implementing. The result of the ".net" strategy will be unprecedented control over and restriction

of Internet use and Internet based commerce to the benefit of Microsoft and its business partners, exclusion of competition, consumer choice, and allowing Microsoft to have virtually unconstrained control over the prices and terms of licenses and services that are available to the public.

For the above reasons I urge the states to continue to seek more effective penalties and more restrictive controls over Microsoft's activities until both competition in the IT industry and consumer abuses have been addressed effectively.

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